

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-155996-001 SE

05/23/2012

COMMISSIONER STEVEN P. LYNCH

CLERK OF THE COURT
T. Pavia
Deputy

STATE OF ARIZONA

CATHERINE LEISCH

v.

BENITO GIL-MENDOZA (001)

BENITO GIL-MENDOZA
254685 ASPC DOUGLAS MOHAVE U
P O BOX 5002
DOUGLAS AZ 85608
THOMAS J DENNIS

APPEALS-PCR
COURT ADMIN-CRIMINAL-PCR

PCR DISMISSED

The Motion for Post-Conviction Relief is dismissed pursuant to Arizona Rules of Criminal Procedure 32.6 (c). The Defendant entered a plea agreement and the Court found that he knowingly, intelligently and voluntarily entered a plea. The record suggests no ineffective assistance of counsel and the Defendant received the presumptive Sentence. The claims that the Sentence were impermissibly aggravated are without any merit. Even if the Sentence had been aggravated, the Defendant waives his right to a jury finding of aggravating factors.

The Defendant has already received the benefit of Appellate Counsel who reviewed the case and filed an *Anders* brief. It is not ineffective assistance of counsel simply because counsel found no grounds to raise a non-frivolous claim. The Defendant fails the test in *Strickland v. Washington*, 466 U.S. 689, in raising claims of ineffective assistance with regard to Trial and Appellate Counsel.